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MONROE COUNTY MEDICAL SOCIETY
REPORT OF A COMMITTEE ON THE
SUBJECT OF MEDICAL LEGISLATION

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COMMITTEE ON THE SUBJECT OF MEDICAL LEGISLATION,

TO THE
(N. Y.)

MONROE COUNTY MEDICAL SOCIETY,

Rochester, Nov. 9, 1842.

29836

THE Committee to whom was referred the subject of Medical Legislation, beg leave to present to the Society the following Report:

Soon after your Committee received their appointment, they addressed a Circular to some thirty individuals, residing in the several States, propounding the following queries:

1. Is there any law in your State regulating the Practice of Physic and Surgery? and if so, what is it?

2. Do the laws of your State prohibit Quackery in any or all of its forms of Thompsonian, Botanic, &c.?

3. If any law in your State, imposing penalties or disabilities upon the Quack, has ever existed, has it ever been repealed or abolished; and if so, what influence has such abolishment had upon the increase or decrease of Quackery?

To these interrogatories, we have received twenty letters in reply, from gentlemen residing in as many different states; besides eleven pamphlets and printed documents, consisting of acts of incorporation of State Medical Societies, minutes of their proceedings, reports of committees, addresses, &c. And the Committee would take this opportunity to express, for themselves and in behalf of the Society, their acknowledgments to these gentlemen, for the prompt and courteous manner in which they have responded to the Committee's request.

In order to bring before you the sum of information thus obtained, it will be necessary to give abstracts of these several letters and documents; and first we begin with those States where no medical laws have ever been enacted.

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NEW-HAMPSHIRE.

Respecting New-Hampshire, Dr. AMOS TWITCHELL, of Keene, writes: "There are no laws in this State regulating the Practice of Physic and Surgery. Irregular practitioners, or Quacks, are subject to no penalties or disabilities, but can recover for their services such compensation as a jury may deem reasonable.

"I am not aware that any law of the kind referred to has ever existed in this State, but damages have in several instances been recovered for mal-practice."

RHODE-ISLAND.

Dr. SAM'L BOYD TOBEY, of Providence, says: "Our Legislature has done nothing for the suppression of Quackery. A Charter was granted in 1812, to what is termed the Rhode-Island Medical Society; and in 1826, another act of incorporation was granted to a class of petitioners, who had not been able to gain admittance into the Rhode-Island Medical Society. Of these I know but little, but believe they do not much regard their organization. Quackery has its supporters among us, and especially at this time, in the admirers of Homœopathy. But upon the whole, the regular medical practitioners have little to complain of in Rhode-Island, being generally well encouraged."

PENNSYLVANIA.

Dr. PENNOCK says: "That no Legislative action in relation to the Practice of Medicine or Surgery, has ever taken place in Pennsylvania. That the practice is open to all; and any person, even without the formality of a medical examination, by a Medical Board, may practice medicine and recover his claims for professional services by a civil process. All the various forms of Quackery and Empiricism are rife in this State. Homœopathy flourishes most in this city, [Philadelphia,] and Thompsonianism in the country districts."

VIRGINIA.

Dr. JNO. BRAGG, of Petersburg, says: "We have no law in this State regulating the Practice of Physic and Surgery—consequently, none prohibiting Quackery; nor has any law ever been enacted, imposing penalties or disabilities upon the Quack, unless he be a *Negro*.

"Quackery has often raised its Hydra head among us, but science and skill have invariably put it down; but not until much mischief had been accomplished."

NORTH CAROLINA.

Dr. W. H. McKEE, of Raleigh, says: "There is no law, nor has there ever been any upon the subject in North Carolina. Every individual is allowed the privilege of practicing medicine, and can recover his fees in this State; no matter what his qualifications or pretensions."

KENTUCKY.

In relation to Kentucky, Dr. DUDLEY, of Lexington, says: "We have no statute in relation to the Practice of Medicine."

TENNESSEE.

Dr. A. H. BUCHANAN, of Columbia, says: "We have no law in our State regulating the Practice of Medicine and Surgery, and no law prohibiting Quackery in any of its forms. Root Doctors, Thompsonians, or, as we call them, Steamers, Old Women, Witches, Faith, and P—s Doctors, alike flourish in our State, without the least restraint by law; nor has there ever been any law on the subject."

We are indebted to Dr. B. for two copies also of the proceedings of the Tennessee State Medical Society; viz., for the years 1839 and 1842; containing three addresses before said Society—two of which are by Dr. B. himself, in one of which he very fully discusses the subject of Medical Legislation.

MISSOURI.

From Missouri we have received only a copy of the act of incorporation of the State Medical Society; also a copy of the Constitution and By-laws of said Society. The letter, if any accompanied these, has never reached us. From this we infer, that no law exists regulating the Practice of Medicine, or prohibiting Quackery; as the act is only one of incorporation, and the constitution and by-laws of the Society relate only to the duties and etiquette of the members among themselves.

The next ten successive States we shall notice, are such as have abolished all law on the subject.

MAINE.

We are informed by Dr. JAMES BATES, of Norridgewock, that "soon after the State of Maine formed its Constitution, a law was passed which deprived *new* made Quacks of the benefit of law to collect their dues. The effect was to procure *ready pay*, and to raise a hue and cry of persecution, which gained them many supporters. Some ten years since, they made a political move, and procured its repeal.

"Empiricism pervades every nook and corner of our State; and having as many forms as Proteus, one class follows another, so as to keep credulity constantly supplied with *certain* remedies against disease and death. We have Seventh Sons, Cancer Doctors, Thompsonians, Homœopathists, and Mesmerists, and every Store and Printing-Office is a Depository of Patent Medicines—and how our community manage to live to any decent age, to me seems a miracle. I once thought, that sweating and physicking the ignorant to death, would leave a better state of things; but experience has shown me that, in proportion, the intelligent part of community suffer as well as the less informed."

VERMONT.

In reply to our first interrogatory, Dr. J. H. PHELPS, of Rochester, says: "We have no law in this State regulating the Practice of Physic and Surgery. At present law has nothing to do in prohibiting Quackery in any form." He further states, that there was a law passed in 1821, to this effect—"No person shall be entitled to the benefit or privilege of law for the collection of his or their fees, unless they have received the degree of M. D. or A. B., in some Academy, College, or University, within the state or elsewhere, having authority to confer such degrees.

This law did not prevent their practice, but they did not have the benefit of law for the collection of their debts. Quacks were left at the mercy of their employers, who would pay them or not, just as they chose.

"In 1835, the Quacks, together with their friends, petitioned the Legislature to repeal the act of 1821, saying it was an unjust law—"that the laborer was worthy of his hire"—that if individuals would employ them, they were entitled to pay for their services and medicine; but their petition was not granted. In 1836-7, they again petitioned; but with no better success. The sympathy of the people seemed to move with these ignoramuses, and in 1838 they again petitioned the Legislature, and obtained their request, on the principle that if the enlightened community has a disposition to employ them, let the Quack have law on his side—. I think the abolition of this law has had a very salutary operation in the suppression of Quackery, through this region. We have not had a Quack in this town for nearly three years past; the eight years previous we had one here constantly."

MASSACHUSETTS.

From the documents sent us by Dr. JOHN MASON WARREN, of Boston, it appears that, in Massachusetts, a law was passed in 1818, and amended in 1819, entitled "An act to regulate the Practice of Physic and Surgery;" but when the Statutes of the State were revised, some years since, this act was left out—respecting which, Dr. Warren, in his reply to the Committee, says: "This act, in accordance with the wishes of the greater part of the [State Medical] Society, was omitted, as being in its action adverse to their interests."

CONNECTICUT.

From Dr. Ives, of New-Haven, we learn that the laws of Connecticut "require a term of time for study, and test of qualifications by examination, but no penalty. Any person in the State may practice medicine, but has not the privilege of collecting his debts for practising, by law. At the last session of the Legislature, this law was repealed."

MARYLAND.

We are informed by Dr. CHARLES MACGILL, of Hagerstown, that there is no law at this time in Maryland, regulating the Practice of Medicine, nor prohibiting Quackery; that it is practised in all its forms.

He says: "We had, up to 1838, the following law in full force. By the acts of 1798, chapt. 106, the Medical and Chirurgical Faculty of the State of Maryland were incorporated. This act authorizes the Faculty to elect a Board of Examiners for the State, whose duty it shall be to grant licenses to such gentlemen as they, either upon a full examination, or upon the production of diplomas from Colleges, may judge adequate to commence the practice of the Medical and Chirurgical arts. Said law prohibited all persons from practising without having first obtained such license, under a penalty of fifty dollars for each offense.

"A prejudice was created by the Thompsonians against the regular Faculty; and in 1838 the following law was passed. Acts of Maryland, 1838, chapt. 281: 'Be it enacted by the General Assembly of Maryland, That from and after the passage of this act, it may and shall be

lawful for each and every person, being a citizen of this State, to charge and receive compensation for their services and medicines, in the same manner as Physicians are now permitted to do.'

"During the whole time that we had a medical law, the community were protected from open Quackery, and many valuable lives were saved in consequence; but since the repeal, Quackery has been carried on in all its forms, and many of our citizens have been humbugged to death by their mal-practice. I think the law protecting the community ought not to have been repealed."

SOUTH CAROLINA.

In 1817, an act was passed in South Carolina, entitled "An act to regulate the licensing of Physicians to practice, and for other purposes therein mentioned." This act imposed a fine of \$500, and two months' imprisonment upon all persons who presumed to practice Physic or Surgery, or in any manner prescribe for the cure of disease for fee or reward, not duly authorized by the provisions of said act. It also declared all bonds, notes, &c., for medical services, utterly void and of no effect. In 1838, these penalties and disabilities were annulled. "Public opinion was arrayed against them."

Respecting this act, repealing the one of 1817, Dr. RAMSAY, of Charleston, says: "I do not think it has had any effect on the increase or decrease of Quackery." Dr. LOGAN, however, seems to be of a different opinion. He says, in 1838, the success and encouragement in secret murdering, met with by the *Steam Doctors* and their coadjutors, emboldened them to make a formal application to the Legislature, for a repeal of all the laws regulating the Practice of Medicine. The question was a popular one, and the enlightened members of the Legislature, fearing to risk their popularity, by opposing such an insult to the highly enlightened medical community of South Carolina, actually voted for, or sanctioned the repeal of every law hitherto restricting the Practice of the Physician, Surgeon, and Apothecary, to properly qualified and authorized persons, and allowed every Old Woman, Savage Indian, or Guinea Negro, that chose to start up and call themselves Doctors, Surgeons, or Apothecaries, "to rise, kill, and slay." The consequence was, that the name of Doctor became as common on the door posts as bell handles. Apothecary Fancy Stores multiplied ad infinitum." Dr. L. refers us, moreover, to an article published by himself on this subject, in the Amer. Jour. of Med. Science, for July, 1841, page 245.

ALABAMA.

In relation to Alabama, Dr. WM. D. LYLES says: "There is no existing law on the subject—that the laws of the State do not restrict or prohibit Quackery, in any of its forms. It is turned loose, unbridled, and riots madly amid the groans of its thousands of victims annually." He adds—"There was formerly a law in existence, which imposed penalties on the Quack. There was a Board of Medical Censors, that had the power to grant licenses to practice Medicine and Surgery. The Board, however, has been abolished, which operates as a repeal of all law on the subject. The penalty under the law was \$500 fine and six months imprisonment, for practising without license from the Board.

Its repeal has had the effect to overrun the State with Quacks of every description, of every name and country. It has destroyed confidence in the Profession generally; broken down all medical etiquette, and prostituted the science of Medicine and Surgery to the level of a mere trade. Certainly, there are many exceptions to the sweeping remarks made above; but, generally, they are true."

MISSISSIPPI.

Dr. CARTWRIGHT, of Natches, to our first interrogatory, viz: "Is there any law in your State," &c., says—"I reply in the negative." To our second, viz: "Do the laws of your State prohibit Quackery," &c., says, "They do not." But that "the State of Mississippi, from its admission into the Union, down to the year 1834, had probably a more efficient code of laws to restrain Quackery, than any other State in our Confederacy. They answered the purpose for which they were intended most effectually. Before any person could practice Medicine or Surgery in this State, he had to appear before a Board of Medical Censors, established by the Legislature, and produce evidence satisfactory to the Board, of his Medical and Surgical attainments, (whether a graduate or not,) and also of good moral character. This being done, he obtained a permanent license. This had forthwith to be taken to the Clerk's Office of the County in which the Physician receiving it intended to locate, to be there recorded. The Clerk of the Court was compelled to furnish the Grand Jury of the County, with a list of all the licensed Physicians, every time the Jury assembled. It was also the duty of the Judge of the Circuit Court, to charge the Grand Jury to indict every person who presumed to practice Medicine, whose name was not recorded among the licensed Physicians of the County. The fine for each offense was something, together with costs, but could not exceed \$500. These laws, for a number of years, until they were annulled by a change of the Constitution, effectually put down all kinds of Quackery, throughout the State. When the Constitution was amended, the Board of Censors was abolished. Ever since 1834, the State has been overrun with Quacks of all kinds, and the mortality has greatly increased."

Dr. Cartwright proceeds, in a long and interesting letter, to give his views in full, in relation to Medical Legislation. He also makes some important suggestions, as to the best method of elevating the character of the profession. He has published an article in the American Journal, in the January number of 1841, page 211, in which he attempts to show by statistics, an increase of mortality in the city of Natches, since the year 1834, when the door was thrown open to the empirics, by a repeal of all law on the subject.

INDIANA.

Dr. Jno. W. DAVIS, of Carlisle, says: "There is no law in Indiana, regulating the Practice of Physic and Surgery, at this time. Twenty years since, there was a law in force requiring all persons, (graduates included,) who desired to practice Medicine, to undergo an examination before a Board of Censors, and obtain a license from such Board. On failure to do this the practitioner was incapacitated under the law to coerce the payment of the debts due him. This was repealed, about fourteen or fifteen years ago; since which time there has been no Legisla-

tive action upon the subject. Of course Quackery, in all its forms of *Steam, Root, Water, Dog-Fennel, Bug-Dust, Faith, and Indian Doctors* flourish, untrammelled by any legal enactments. I am unable to say that Empirics are more numerous now than when we had a law restraining them, taking into calculation the great increase of population within the last fifteen or twenty years."

OHIO.

To our first inquiry, Dr. CHARLES C. HILDRETH, of Zanesville, replies—"That at present no such law exists. The consciences of our citizens are left perfectly untrammelled in matters of Physic as well as Divinity. The law makes no invidious distinctions between the Quack and the Physician. The Cobbler who sits all day and hammers sole leather, *when not professionally engaged*, and whose Library consists of a single Treatise by Thompson, (which, in point of size, would not make a respectable monograph on Hæmorrhoids,) is by law entitled to all the privileges and immunities of the M. D., who has walked the Hospitals for seven years in Europe, and devoted a lifetime to the Science of Medicine. You may call this carrying out the democratic principle somewhat liberally; so indeed it is. In the State of Ohio, there is no distinction of rank in the Profession of Medicine."

To our second interrogatory, he says: "An act to incorporate Medical Societies, for the purpose of regulating the Practice of Physic and Surgery in this State, was passed Feb. 26, 1824. This act imposed penalties for practising Medicine without a diploma or license from the State Medical Society—nor could any one, without such authority, collect his fees for medical services by law. This act was repealed Feb. 25, 1833. Since which time we have had no medical law in force. The only resource now left the public against the destruction of health and life by Quackery, is an action at law for damages, on a plea of mal-practice. Such actions are frequent and fines and penalties sometimes severely inflicted."

To our inquiry, "What influence has the abolishment of such law had upon the increase or decrease of Quackery?" he says—"As far as my observation extends, the repeal of all law on the subject has had a tendency to diminish the number of Quacks among us. This has certainly been the result in the town of Zanesville and vicinity. During the existence of our medical law, the Quack cried out to the people, that he was an oppressed and persecuted man; that if the law would extend to him the privileges granted the Physician, he would convince the people of the superior efficacy of his remedies and the wonderful success of his practice. This argument, however fallacious, had its influence with the ignorant. The repeal of this law at once robbed the Quack of his strong hold on the sympathies of the public, and left that public unbiassed in its judgment of his merits, and the comparative success of his practice. The absence of all medical law has, however, tended very perceptibly to put down the standard of professional excellence among the regular Faculty. Hundreds of men enter the profession in our State, who are wholly unqualified to practice, both by previous education and gross ignorance of Medical Science. Hence, the appellation of Doctor is in many instances any thing but a term of honor. The facilities for

getting diplomas from our Medical Colleges, are much too great for the good of the profession. Medical Colleges are, in this respect, positively dishonest. From pure mercenary motives, and for the express purpose of increasing their classes, they suffer hundreds to take a degree, who, they are perfectly aware, are unworthy. These things require reform. The question is, how is this to be effected? Much advantage would no doubt arise from increasing the term of study, to something near the term required by law in the most enlightened portions of Europe. Another measure having the same tendency, will be to take from Medical Colleges the power to confer degrees, and give it to a State Central Board of scientific men."

In the four following States, prohibitory laws in some form or other, are still in force—viz: in the States of New-Jersey, Georgia, Louisiana, and New-York.

NEW-JERSEY.

In 1816, a law was passed in New-Jersey, incorporating the State Medical Society. This act underwent various revisions and amendments in the years 1818, '23, '25, '30, & '38, the latter being the one now in force. It is sufficiently severe in its penalties, subjecting the illegal practitioner to a fine of \$25 for every prescription, together with costs of suit, besides disabling him from the collection of any fees for services rendered. The 14th section reads thus: "This act shall be so construed as to prevent all irregular bred pretenders to the healing art, under the name or titles of Practical Botanist, Root or Indian Doctor, or any other name or title, involving Quackery of any species, from practicing their deceptions," &c. &c.

Of this law, however, Dr. THOMPSON, of Salem, says, in reply to our third inquiry: "That it is still in force; that is, it stands unrepealed on the Statute Books, but I am sorry to add, it is nearly a dead letter. The officers of our Medical Societies have become negligent of their duty, and popular opinion has been suffered to array itself against the enforcement of the law."

GEORGIA.

Professor PAUL F. EVE, of Augusta, says: "There is a law, passed in 1839, re-organizing the Board of Physicians. The Board has the power to examine applicants, grant licenses, &c.; but a proviso of a most absurd character is attached to the law, which completely nullifies it. It is as follows: "Provided, nothing in the said revised act, be so construed as to operate against the Thompsonian, or Botanic Practice, or any other Practitioner of Medicine in this State." A law, passed in 1826, imposed a penalty of \$500 upon any one who should practice Physic in Georgia, without a license from the Board of Physicians; and it further prevented the collection by law, of any account for medical services, rendered by any individual unlicensed. It is not certain that Quackery has increased since the abolition of all penalties against it, which was done in 1835.

"The Thompsonians have a College in the interior of the State, regularly incorporated, with the usual Collegiate powers. It has never been endowed—like the building attempted to be put up—it sustains a sickly existence. Thompsonianism is evidently on the decline in Georgia."

LOUISIANA.

Dr. LOGAN, drawing a comparison between Louisiana and South Carolina, informs us that a more "wholesome state of things exists in Louisiana. No State in the Union is better protected against impositions of all kinds in Medicine, than in this. By an act of the Legislature, passed in 1820, no person is allowed to practice Medicine, or the profession of an Apothecary, without submitting to an examination before a Board, consisting of five Physicians and one Apothecary, appointed by the State.

"The law provides that a respectable diploma of Doctor of Medicine, shall entitle an applicant to a certificate of permission to practice, without being obliged to submit to an examination; but Medical diplomas having become of late as plenty as pocket knives, the Board have hence assumed to themselves the right of examining all applicants, without respect to any certificates or diplomas whatever." In this, Dr. L. admits, however, that they have assumed more power than the law grants.

NEW-YORK.

Having thus disposed of all the information received respecting the other States, we proceed, lastly, to notice the laws of the State of New-York.

In the second vol. of the "Revised Laws of New-York," as revised and published in 1813, page 219, in a note at the bottom, we find the following interesting brief history:

"The Practice of Physic and Surgery in the city of New-York, was first regulated June 10, 1760—and afterward by an act of March 27, 1792. On the 23d of March, 1797, the first general regulation throughout the State was adopted, authorizing the Chancellor, a Judge of the Supreme Court or Common Pleas, or a Master in Chancery, to license Physicians and Surgeons, on receiving evidence of their having studied two years, &c.—and the act of March 27, 1792, was thereby repealed. This act of March 23, 1797, was revised, and with some alterations, passed, April 4, 1801. It was further amended in one of its provisions March 22, 1803. On the 4th of April, 1806, an act was passed, establishing Medical Societies in the State, and a general State Medical Society, and repealing the former act. This act, with its subsequent amendments, has been adopted in the present revised act, passed April 10, 1813."

This act of 1813, underwent various amendments previous to the adoption of the present Constitution of this State, in 1821, and from that time also, to 1830, when the present "Revised Statutes" were adopted: and it still forms the basis of the law now in force, regulating the Practice of Medicine, which is to be found in the first volume of the "Revised Statutes," Title 7, Chapt. 14, and is entitled "General Regulations concerning the Practice of Physic and Surgery in this State."

In the 22d section it is declared, that "Every person, not authorized by law, who shall, for fee or reward, practice Physic or Surgery within this State, shall be incapable of recovering by suit any debt arising from such practice—and shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the Court by which he shall be convicted." This law went into operation on the first of January, 1830. On the 7th of April following, of the same year, the last

clause of this section was repealed and amended thus : " Every person not authorized by law, who shall practice Physic or Surgery within this State, shall, for each offense of which he may be duly convicted, forfeit and pay a sum not exceeding \$25, &c.—But the provisions of this section shall not be deemed and taken to extend to, or debar any person from using or applying, for the benefit of any sick person, any roots, barks, or herbs, the growth or produce of the United States."

In 1834, April 3d, the proviso of the last section quoted, was repealed and so amended, as that the provisions of the former part of the section should not be so construed as to apply to persons who should, " without fee or reward use or apply for the benefit of any sick person, any roots, barks, or herbs, the growth or produce of the United States." But on the 11th of May, of the following year, 1835, the entire act of 1834 was repealed; which left the law as passed April 7, 1830, and which is the one now in force. But the Thompsonians and their abettors have not ceased, from that day to this, to harass the Legislature with their petitions, to repeal that section which disqualifies them from collecting by law their fees for services rendered. The refusal of the Legislature to grant their petition, and the existing disqualification, afford them abundant ground for agitation; to cry out persecution—monopoly—"calomel and the lancet"—till thousands have had their sympathies enlisted in their behalf; have come to believe their senseless clamor, and had their prejudices aroused against the Medical Profession.

From the facts thus adduced, it appears, that EIGHT of the States have never had any laws regulating the Practice of Medicine; that TEN have abolished all law on the subject; that FOUR only, have any existing law, so far as is known to us, (for from the four following we have received no replies to our circular—viz: ARKANSAS, ILLINOIS, MICHIGAN, and DELAWARE.) So that EIGHTEEN at least out of the twenty-six States have, at this time, no laws regulating the Practice of Medicine, nor prohibiting that of Quackery.

With regard to the benefits to be derived from Legislation, in the matter before us, the testimony here adduced is somewhat discrepant, both as it regards the facts, and the opinions of the witnesses. But one thing is clear, viz: that Quackery and Patent Nostrums every where abound, despite all law and the severest penalties. It is also equally evident, that public opinion will not tolerate penal enactments prohibiting Empiricism. The Committee have, therefore, unanimously come to the following conclusions:

FIRST—That in the present state of the public mind, all penal or prohibitory enactments are inexpedient.

SECOND—That it is most conformable to the spirit of our civil institutions, to leave perfect liberty to all to Practice Medicine, being amenable only for injury done.

THIRD—That all Legislation relative to the Practice of Medicine and Surgery, as in all other Arts and Sciences, should only aim to encourage by affording such facilities as may be necessary to its highest prosecution.

FOURTH—That the important, if not the only remedy against Quackery, is Medical Reform, by which a higher standard of Medical Education shall be secured.

A late number of the London Quarterly Review holds the following language on this subject, as it regards England :

“The Provincial Medical Association has a Committee on Quackery, who make an Annual Report on the subject, and they would urge Parliament to interfere for the purpose of suppressing it with the strong hand of the law. But indeed we do not agree with them in the views which they have taken. We are convinced that the thing is impracticable. It may be made penal for a man to call himself a Physician, or Surgeon, or Apothecary, who has not obtained a license ; but how is he to be prevented from giving advice, and Medicine too, under the name of Botanic, Hygeist, or Homœopathist ? Or, he may put Doctor before his name on the door, and say, probably with truth, “I’m a Doctor, for I purchased the degree of Doctor of Philosophy, for five pounds, at Heidelberg.” Moreover, the experiment has already been made, and without success. The College of Physicians, of London, are armed by their charter and acts of Parliament, with ample powers for the purpose, but they have long since abandoned the exercise of them, in despair. And in France, where the Legislature have done all that they could do to suppress it, Quackery flourishes as much as in any country in the world.

“If the Medical Profession require any further protection, we take leave to say, that it is in their own hands. Let them rely on their own skill, character and conduct ; let them discountenance among themselves, all those who, though regularly educated and licensed, endeavor to delude or take advantage of the public, or to puff themselves into notice by unworthy means ; let them claim for their art no more credit than it really deserves, nor make promises which they have not just expectations of being able to fulfill—and we venture to assure them that they will have nothing to fear. They cannot make men immortal ; but they can on so many occasions stand between life and death, and on so many others relieve the most grievous sufferings, that no one will refuse to admit that they are among the most useful, whilst they themselves must be conscious, that they are among the most independent members of society.”

The object of Legislation is the public good. Medical law may be said to have a twofold object : first, the protection of the community against imposition, where health and life are involved : second, the improvement of Medical Science : both aiming at and resulting in the public good. But law is the expression of the public will, without which it can neither be enacted, sustained, nor executed. The written statute is, therefore, a dead letter, whenever the public mind is arrayed against it. And this is pre-eminently the case with regard to the Medical law of this State at this time. Empiricism is every where rife, and was never more arrogant, and “the people love to have it so.” That restless, agitating, agrarian spirit, that would always be levelling down, has so long kept up a “hue and cry against calomel and the lancet,” that the prejudice of the community is excited against, and their confi-

dence in the Medical Profession greatly impaired—and no law could be enforced against the Empiric, or *nostrum vender*. Every attempt of the kind would only create a deeper sympathy in their favor, and raise a storm of higher indignation against the Profession. This spirit cannot be controlled by arbitrary Legislation. It only makes it, like compressed steam, the more elastic and more certain to explode. It is by seeming to yield, and giving it space, that it becomes quiescent and harmless. A repeal of all penalties and disabilities would take away from the Quack his strong ground for appeal to the sympathies of the people.

The Committee are sustained in this opinion, by a majority of the Profession of Massachusetts, as we are informed by our correspondent, Dr. J. M. WARREN, of Boston; the Profession themselves voluntarily soliciting an abolishment of all prohibitory enactments. Dr. THOMPSON, of Salem, N. J., says, "Many of our most intelligent Physicians express their willingness to see all restrictions abolished; some on the ground, that *no law is better than one not enforced*; others, that if fair competition is allowed, the people will soon learn to judge correctly between the claims of different modes of practice." Dr. T. himself, however, is of a contrary opinion. But the *facts* stated by Dr. PHELPS, of Vermont, and Dr. HILDRETH, of Ohio, are direct and pointed proof, that such would be the result; and one positive fact is worth a thousand negatives, or theories, ever so plausible. Again, where no restrictions exist, prosecutions for mal-practice will be more common, and operate as a much greater check upon the presumptuous arrogance and ignorance of the Empiric.

Thus much for our first and second conclusions. With regard to the third, we would observe—that the endowment and incorporating of Medical Schools; the establishment of Hospitals, and Anatomical Museums, and other facilities for a thorough Medical Education, would all be legitimate objects of Legislation. To attempt more than this, in the present state of public opinion, we deem inexpedient.

With regard to our fourth conclusion, viz: "That the important, if not the only remedy against Quackery, is Medical Reform, by which a higher standard of Medical Education shall be secured," we would remark: That mere legal technicalities do not distinguish the Physician from the Empiric. The title of Doctor Medicinæ has lost its original import in the public mind. It is about as significant as the military title of Captain, applied to the master of a canal boat, and a hundred other occupations. The one is about as common as the other, and commands about as much respect. To redeem, therefore, the title and the Profession from the odium attached to both, it is absolutely essential that the character of the Profession should be elevated. Science, directed by skill, can alone distinguish between the M. D. and the Quack. Penal enactments never can.

Every community, or fraternity, or body politic, must be composed of individual members; and if unworthy ones are admitted, fostered and fellowshipped by it, the whole body suffers; provided the offending members are not reformed or expelled. This general principle applies most emphatically to the Medical Profession. It is Empiricism within, that produces very much of the Empiricism without our ranks. Diplomas

are too cheap; we do not mean as to pecuniary cost; but in the time of study and attainments required.

In the language of one of our correspondents, "We have too many schools of Medicine *that grind out Doctors for the mere profit of it.* As long as our Medical Colleges are mere machines for manufacturing M. Ds. according to the demand, the passage of laws by the States, although they may do something towards the suppression of Quackery, can never wholly accomplish so desirable an end."* Another says, "Reform is loudly called for; as a profession we are retrograding. The facilities of obtaining diplomas are too great."† Says another, "I regret to say that our Profession does not occupy that elevated station that is desirable."‡ The Medical Journals, too, are filled with similar lamentations. The Editor of the American Journal, in the August No. of 1838, says, "That a reform is required in the system of Medical Instruction in this country, is becoming every day more manifest."

The fact then is undeniable, that, notwithstanding there are many men in the Profession, eminent for talents, learning, and skill, too many have found admission, who, by their ignorance, or dishonesty, or dishonorable and empirical tricks to gain popularity and business, have brought dishonor upon the whole Profession. Too many have no higher conception of the responsibility and dignity of the Practice of Medicine, than that it is a mere trade—a scramble after patronage, dollars and cents. And to secure these, some do not hesitate to abandon facts and principles, which the accumulated experience of ages have established, and adopted that sublimated humbug engendered in that land of all transcendental folly. And some such are among us and of us. To demand legislative enactments, therefore, against Empirics, does not come with a very good grace from the Profession. It looks too much like a wish "to pluck a mote out of our [neighbor's] eye, while a beam is in our own." Reform should begin with ourselves. How to effect this is properly the first question. Legislation alone cannot accomplish it. The Profession must move first and begin the work. And here we are met by a difficulty, which the law itself in our State has created. A man presenting himself for admission to our County Medical Societies, furnished with legal credentials, must be received as a member. Once admitted, he can neither be suspended nor expelled for any thing but "gross ignorance or misconduct in his profession, or of immoral conduct or habits." Now a member may be guilty of many other misdemeanors that may render him unworthy of the confidence and fellowship of his Medical brethren. He need not be chargeable with "gross ignorance or misconduct in his profession, or of immoral conduct or habits;" he may even be learned and skillful; yet he may be dishonest in his intercourse with his professional brethren, impose upon the ignorance of his patients and the public, in relation to Medical subjects, and resort to all the lowest tricks of the Charletan, to supplant his professional associates and secure patronage. And yet for all these offenses he cannot be deprived of membership nor ejected from the profession.§ The Society must still hold him in its embrace, like a venomous reptile in the bosom,

* Dr. Lyles.

† Dr. Logan.

‡ Dr. Jno. W. Davis.

§ Except by a process of law.

nestling there only to sting and destroy. This feature of our laws of organization should, without any doubt, be amended, or abolished, and leave every Society free to determine and supervise the character, qualifications and practices of its own members.

But how shall a thorough Medical Reform be secured? An extended answer to this question does not strictly come within the purview of this committee; but as it is intimately connected with the subject of Medical Legislation, we cannot wholly pass it by.

The necessity of Medical Reform is universally felt by the Profession; and for several years, the means of accomplishing it, is a subject that has occupied the minds of Medical men. Several suggestions have been offered and some attempts made to put the means in operation. In the August No. of the "American Journal of Medical Sciences," for 1838, page 526, is a copy of several resolutions adopted by a Medical Convention, held in Ohio, at Columbus, in Jan., 1838.

The first six resolutions set forth the defects of instruction in our Medical Schools. The seventh reads thus: "Resolved, That, if the various schools of the Union were to send representatives to a meeting at some central point, to confer together, many of their existing defects, by a simultaneous, co-operative effort, might be successfully remedied; and that we respectfully recommend such a Convention to be held. Till when, it would not be practicable, nor should it be expected, that any single Institution will attempt the reforms which are here proposed." The eighth resolution directs the secretary to send a copy of said resolutions to all the Medical Institutions of the United States, with a letter calling the attention of their Professors to them.

In the November No. of the same Journal, for the same year, page 264, we find the following paragraph:

"At the Annual Meeting of the New-Hampshire Medical Society, holden in June last, it was voted, that 'this Society recommend an Annual National Convention, to consist of Delegates from the various Medical Schools and Societies in the Union; that the first Convention be proposed to be holden A. D. 1840, and that the Secretary send a notice of this vote to the Boston Medical and Surgical Journal, and the American Journal of Medical Science at Philadelphia.'

JAMES B. ABBOT, Sec. N. H. Med. Soc'y.

Boscawen, Oct. 1838."

The object of this Annual Convention is not stated, but it may be presumed to embrace in its design Medical Reform. One of our correspondents, Dr. LOGAN, of New-Orleans, says:

"Permit me to take the liberty of suggesting to your respectable Society, the propriety of calling a General Medical Convention, to meet in your State at as early a day as possible, for the purpose of Medical Legislation, not only on Quackery, but also on *Medical Education*."

Another suggestion made by several of our correspondents is, that a Board of Censors be established in every State, which shall be independent of all our Medical Schools, who shall have the sole power to examine candidates, grant licenses, confer Medical degrees, and grant

diplomas. Other suggestions have been offered, but it is unnecessary to pursue this subject any farther at this time.

The foregoing facts, opinions, and suggestions are here stated, for the purpose of showing that the necessity of Medical Reform is a prevalent idea; that the means of effecting it are not Legislative enactments; but a general movement among Medical men themselves, combining their efforts and adopting a higher standard of Medical qualifications, which shall alone entitle the candidate to a diploma and a place among the Profession; and which shall exclude from their fraternity all who will not, or cannot, undergo the ordeal of a thorough and impartial examination, touching their knowledge of all the sciences deemed requisite.

Your Committee would beg leave to remark, in conclusion, that they are aware, that in the opinions herein expressed—in recommending the abrogation of all prohibitory or penal laws in relation to the Practice of Medicine and Surgery—they are coming in direct collision with all the acts and recommendations of the State Medical Society, of this State, and that they differ in their opinions from many of their Medical brethren, whose judgments are entitled to great respect. With due deference, therefore, we submit the whole subject as here presented, to the consideration of the Society.

W. W. REID,	}	COMMITTEE.
F. F. BACKUS,		
E. M. MOORE,		

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